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Mistrial Motion Is Denied In B-26 Conspiracy Trial

Court Grants Request to Subpoena
CIA Director as a Defense Witness

By RON MASELKA

An exporting conspiracy trial continued in federal court today with the cross-examination of a Tucson, Ariz. businessman.

He is Gordon B. Hamilton whose firm overhauled seven B-26 bombers which were allegedly shipped unlawfully to Portugal in 1965.

Late Wednesday, Judge John O. Henderson denied a mistrial motion made by Edward Brodsky of New York, attorney for Henri Marie Francois de Marin de Montmarin, 58, a Paris businessman and one of three men on trial.

Mr. Brodsky argued that Mr. Hamilton's testimony about suspecting something was illegal about the plane-ferrying operation may be prejudicial to the jury.

Claims CIA Approved

A request for a subpoena to CIA Director Richard Helms to appear as a defense witness at the trial was granted Wednesday by Judge Henderson.

In a written order, the judge authorized the issuance of all 11 subpoenas sought by Edwin Marger, attorney for John R. Hawke. Mr. Marger had described the appearance of the witnesses, who also include an FBI agent and persons active in aviation circles, as necessary to Hawke's defense.

He has claimed that the ferrying of the bombers to Portugal was done with CIA approval.

Defendant Is Indigent

Judge Henderson's order notes that Mr. Marger did not require the presence of Mr. Helms but would accept a CIA representative "sufficiently acquainted with the issues of this case."

The action came because

government will pay the fees for the subpoena service.

Mr. Hamilton testified Wednesday that his offer to get the required export license was refused by the case's missing defendant.

Not yet located by the government is Gregory R. Board, 45, whose company (Aero Associates Inc. of Tucson) allegedly sold the World War II aircraft for delivery to Portugal in 1965.

No License

The remaining three defendants on trial are charged with conspiring to export the planes and related armaments without the license or written U. S. State Department approval.

"At the very first I had a conversation with Board and I offered the services of our company to provide an export license," Mr. Hamilton testified. "However, he was very evasive and said he was taking care of it himself."

Mr. Hamilton said initially he was told by Board the aircraft were going to Canada.

After learning they were going to Portugal, Mr. Hamilton said he had a conversation with Hawke expressing his concern over the need of an export license.

"No, Sir"

"Hawke assured me, he seemed convinced, that Board was doing this legally," Mr. Hamilton added. "He said Board knew what he was doing."

Mr. Hamilton replied, "No, sir," when U. S. Atty. John T. Curtin asked if he talked with Board or Hawke about the CIA.

Besides Hawke, 28, a former RAF pilot, on trial are a French count and aviation businessman, Henri Marie Francois de Marin de Montmarin, 58, and Woodrow W. Roderick, 47, a Winnipeg,

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